IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

MONDAY, THE 19TH MARCH 2007 / 28TH PHALGUNA 1928

CRL.A.No. 569 of 2005(C)

CC.366/2000 of JUDL. MAGISTRATE OF FIRST CLASS COURT-II, TRIVANDRUM
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APPELLANT: COMPLAINANT

P.UDAYAKUMAR, S/O. PRABHAKARAN NAIR,
KUZHIVILA PUTHEN VEEDU, KARIMANAL, KULATHUR P.O.,
ATTIPARA VILLAGE, THIRUVANANTHAPURAM.

BY ADV. SRI.M.RAMASWAMY PILLAI

RESPONDENTS/ACCUSED:-
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1. STATE OF KERALA, REPRESENTED BY THE DIRECTOR
OF PUBLIC PROSECUTION, HIGH COURT OF KERALA,
ERNAKULAM.

2. SREEJITH S/O.SASIDHARAN NAIR,
SREE BHAVAN KUZHIVILA, KARIMANAL,
KULATHOOR P.O., ATTIPARA VILLAGE,
THIRUVANANTHAPURAM.

3. JAYAGOSH S/O. RAVEENDRAN NAIR,
DEVIVILASAM VEEDU, DO. DO.

4. UDAYAKUMAR, DO. DO.

5. AJITH, DO. DO.

6. SASIDHARAN NAIR S/O. NARAYANAN NAIR,
DO. DO. DO.

7. S.A.RAVEENDRAN NAIR,
S/O.SIVASANKARA PILAI, DO. DO.

8. VALSALA KUMARI
D/O.PADMAJAKSHY AMMA, DO. DO.

9. SREEJA D/O. VALSALAKUMARI, DO.

10. V.K.PADMAKUMAR
S/O. KRISHNAN NAIR, DO. DO.

11. RAMACHANDRAN NAIR
S/O.NARAYANAN NAIR, DO. DO.

BY ADV. SRI.G.P.SHINOD FOR R2, R3, R5, R6 TO R9 & R11
SRI.RAM MOHAN.G.
SRI.MANU V.
P.P.SRI.M.S.BREEZE FOR R1

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 19-3-2007 , THE COURT ON 19/03/2007 DELIVERED THE FOLLOWING:

K.Thankappan, J.

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Crl.A. No.569 of 2005

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Dated this the 19th day of March, 2007.

JUDGMENT

Complainant in C.C.No.366/2000 on the file of the Judicial Magistrate of the First Class-II, Thiruvananthapuram is the appellant. The complaint was filed under sections 143, 147, 148, 323, 324 and 326 read with section 149 IPC against respondents 2 to 11. In the complaint it is alleged that on 16-1-2000 at 5.15 P.M. respondents 2 to 11 formed themselves into an unlawful assembly armed with deadly weapons as wooden blocks and reapers with a common object to cause grievous hurt the appellant and in furtherance of the common object respondents 2 to 4, 6, 7 and 10 beat the appellant on different parts of his body and respondents 8 to 10 fisted him on different parts of his body and hence they committed the offence. To prove the case, the appellant was examined as PW1 and three other witnesses were examined as PW2 to PW4 and Exts.P1 to P14 were marked. After closing the prosecution evidence, respondents 2 to 11 were questioned under section 313 Cr.P.C. They stated that they were innocent and the case is foisted against them due to the strained marital relationship between the sister of the appellant and 11th respondent, her husband. After full fledged trial, the trial court found that "t**he delay of giving complaint**

to police, the disagreement in the version of PW1 with the documents produced by him and the divergence in the versions offered by PW1 and his witnesses make it difficult to enter into a finding against the accused persons".

2. It has come out in evidence that a case as C.C. No.271/99 is pending before the trial court on the complaint of respondents 2 and 6 against the appellant and PW2 for an offence punishable under section 324 IPC. The incident of the above case occurred on the very same day. The trial court found that the documents produced by the appellant do not agree with the injuries alleged to be sustained by him. The alleged incident occurred on 16-1-2000, but he complained to the Commissioner of Police only on 25-1-2000. The trial court after analyzing the evidence found that there was no agreement in the version of the appellant before the court with the averments in the complaint.

3. Considering the facts and circumstances of the case, this Court is of the view that the impugned judgment requires no interference by this Court. Hence, the appeal is dismissed.

K.Thankappan,
Judge.

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